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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JEROME THOMPSON, 08-A-4742,

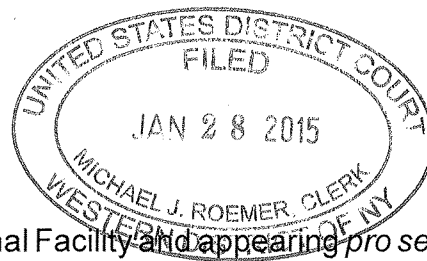
Plaintiff,

-v-

SUPERINTENDENT MR. WENDERLICH, et al.,

Defendants.

DECISION AND ORDER
14-CV-0527A



Plaintiff, an inmate at the Southport Correctional Facility and appearing pro se in this action, has submitted a letter which, in part, appears to request the appointment of counsel and an extension of time to file an amended complaint which he was directed to file on or before January 12, 2015. (Docket No. 13.) The Court had previously granted plaintiff permission to proceed *in forma pauperis* and had directed him to file an amended complaint which set forth an actionable claim under 42 U.S.C. § 1983 on or before January 12, 2015. (Docket No. 11, Decision and Order (Arcara, D.J.).) The Court found that plaintiff's complaint failed to state a claim upon which relief could be granted. Plaintiff was advised that the failure to file an amended complaint by January 12, 2015, would lead to the dismissal of this action with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A.

Plaintiff's motion for an extension of time to file an amended complaint is granted up to and including **March 2, 2015**. His motion for appointment of counsel is denied without prejudice. A more fully developed record will be necessary before the Court can determine whether plaintiff's chances of success warrant the appointment of counsel.

Therefore, plaintiff's motion is denied without prejudice to its renewal at such time as the existence of a potentially meritorious claim may be demonstrated. See *Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997) (when determining whether to appoint counsel, the Court must first look to the "likelihood of merit" of the underlying dispute).

The Court is compelled to advise plaintiff that he cannot continue to submit random and numerous letters to the Court, or its Judges and Staff, as he has done so often in the past. If plaintiff believes he is entitled to some form of relief within this action or his other pending action, 12-CV-0475A, he must file formal motions under the applicable Federal Rule of Civil Procedure setting forth the specific relief being sought and the factual and legal basis for said relief. The Court has a Form Motion Packet and Instructions that plaintiff may use for that purpose. He can write to the Clerk's Office asking that the Motion Packet be forwarded to him. Plaintiff is further advised that if he continues to submit random letters to the Court, or its Judges and Staff, the letters will be returned to him without explanation and he may be subject to sanctions for such conduct, including, but not limited to, an injunction against the submission of any letters.

IT IS HEREBY ORDERED that plaintiff's motion for an extension of time to file an amended complaint (Docket No. 13) is granted up to and including **March 2, 2015**, and his motion for appointment of counsel (Docket No. 13) is denied without prejudice;


FURTHER, that in the event plaintiff fails to file an amended complaint as directed above by **March 2, 2015**, the complaint shall be dismissed with prejudice without further order of the Court;

FURTHER, that in the event the complaint is dismissed because plaintiff has failed to file an amended complaint by **March 2, 2015**, the Clerk of the Court shall close this case as dismissed with prejudice without further order; and

FURTHER, that in the event the complaint is dismissed because plaintiff has failed to file an amended complaint by **March 2, 2015**, the Court hereby certifies, pursuant to 28 U.S.C. § 1915(a), that any appeal from this Order would not be taken in good faith and leave to appeal to the Court of Appeals as a poor person is denied. *Coppedge v. United States*, 369 U.S. 438 (1962). Further requests to proceed on appeal *in forma pauperis* should be directed on motion to the United States Court of Appeals for the Second Circuit in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

SO ORDERED.

Dated: Jan. 26, 2015
Rochester, New York



CHARLES J. SIRAGUSA
United States District Judge